



General Assembly

February Session, 2008

Raised Bill No. 314

LCO No. 1730

* ____SB00314INS__031108__ *

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

***AN ACT CONCERNING NOTIFICATION OF UNDERINSURED
MOTORIST CONVERSION COVERAGE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-336 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) (1) Each automobile liability insurance policy shall provide
4 insurance, herein called uninsured and underinsured motorist
5 coverage, in accordance with the regulations adopted pursuant to
6 section 38a-334, with limits for bodily injury or death not less than
7 those specified in subsection (a) of section 14-112, for the protection of
8 persons insured thereunder who are legally entitled to recover
9 damages from owners or operators of uninsured motor vehicles and
10 underinsured motor vehicles and insured motor vehicles, the insurer
11 of which becomes insolvent prior to payment of such damages,
12 because of bodily injury, including death resulting therefrom. Each
13 insurer licensed to write automobile liability insurance in this state
14 shall provide uninsured and underinsured motorists coverage with
15 limits requested by any named insured upon payment of the
16 appropriate premium, provided each such insurer shall offer such

17 coverage with limits that are twice the limits of the bodily injury
 18 coverage of the policy issued to the named insured. The insured's
 19 selection of uninsured and underinsured motorist coverage shall apply
 20 to all subsequent renewals of coverage and to all policies or
 21 endorsements which extend, change, supersede or replace an existing
 22 policy issued to the named insured, unless changed in writing by any
 23 named insured. No insurer shall be required to provide uninsured and
 24 underinsured motorist coverage to (A) a named insured or relatives
 25 residing in his household when occupying, or struck as a pedestrian
 26 by, an uninsured or underinsured motor vehicle or a motorcycle that is
 27 owned by the named insured, or (B) any insured occupying an
 28 uninsured or underinsured motor vehicle or motorcycle that is owned
 29 by such insured.

30 (2) Notwithstanding any provision of this section to the contrary,
 31 each automobile liability insurance policy issued or renewed on and
 32 after January 1, 1994, shall provide uninsured and underinsured
 33 motorist coverage with limits for bodily injury and death equal to
 34 those purchased to protect against loss resulting from the liability
 35 imposed by law unless any named insured requests in writing a lesser
 36 amount, but not less than the limits specified in subsection (a) of
 37 section 14-112. Such written request shall apply to all subsequent
 38 renewals of coverage and to all policies or endorsements which extend,
 39 change, supersede or replace an existing policy issued to the named
 40 insured, unless changed in writing by any named insured. No such
 41 written request for a lesser amount shall be effective unless any named
 42 insured has signed an informed consent form which shall contain: (A)
 43 An explanation of uninsured and underinsured motorist insurance
 44 approved by the commissioner, and underinsured motorist conversion
 45 coverage, as provided in section 38a-336a, as amended by this act; (B) a
 46 list of uninsured and underinsured motorist coverage options,
 47 including underinsured motorist conversion coverage, available from
 48 the insurer; and (C) the premium cost for each of the coverage options
 49 available from the insurer. Such informed consent form shall contain a
 50 heading in twelve-point type and shall state: "WHEN YOU SIGN THIS

51 FORM, YOU ARE CHOOSING A REDUCED PREMIUM, BUT YOU
52 ARE ALSO CHOOSING NOT TO PURCHASE CERTAIN VALUABLE
53 COVERAGE WHICH PROTECTS YOU AND YOUR FAMILY. IF YOU
54 ARE UNCERTAIN ABOUT HOW THIS DECISION WILL AFFECT
55 YOU, YOU SHOULD GET ADVICE FROM YOUR INSURANCE
56 AGENT OR ANOTHER QUALIFIED ADVISER."

57 (b) An insurance company shall be obligated to make payment to its
58 insured up to the limits of the policy's uninsured and underinsured
59 motorist coverage after the limits of liability under all bodily injury
60 liability bonds or insurance policies applicable at the time of the
61 accident have been exhausted by payment of judgments or settlements,
62 but in no event shall the total amount of recovery from all policies,
63 including any amount recovered under the insured's uninsured and
64 underinsured motorist coverage, exceed the limits of the insured's
65 uninsured and underinsured motorist coverage. In no event shall there
66 be any reduction of uninsured or underinsured motorist coverage
67 limits or benefits payable for amounts received by the insured for
68 Social Security disability benefits paid or payable pursuant to the
69 Social Security Act, 42 USC Section 301, et seq. The limitation on the
70 total amount of recovery from all policies shall not apply to
71 underinsured motorist conversion coverage purchased pursuant to
72 section 38a-336a, as amended by this act.

73 (c) Each automobile liability insurance policy issued on or after
74 October 1, 1971, which contains a provision for binding arbitration
75 shall include a provision for final determination of insurance coverage
76 in such arbitration proceeding. With respect to any claim submitted to
77 arbitration on or after October 1, 1983, the arbitration proceeding shall
78 be conducted by a single arbitrator if the amount in demand is forty
79 thousand dollars or less or by a panel of three arbitrators if the amount
80 in demand is more than forty thousand dollars.

81 (d) Regardless of the number of policies issued, vehicles or
82 premiums shown on a policy, premiums paid, persons covered,
83 vehicles involved in an accident, or claims made, in no event shall the

84 limit of liability for uninsured and underinsured motorist coverage
85 applicable to two or more motor vehicles covered under the same or
86 separate policies be added together to determine the limit of liability
87 for such coverage available to an injured person or persons for any one
88 accident. If a person insured for uninsured and underinsured motorist
89 coverage is an occupant of a nonowned vehicle covered by a policy
90 also providing uninsured and underinsured motorist coverage, the
91 coverage of the occupied vehicle shall be primary and any coverage for
92 which such person is a named insured shall be secondary. All other
93 applicable policies shall be excess. The total amount of uninsured and
94 underinsured motorist coverage recoverable is limited to the highest
95 amount recoverable under the primary policy, the secondary policy or
96 any one of the excess policies. The amount paid under the excess
97 policies shall be apportioned in accordance with the proportion that
98 the limits of each excess policy bear to the total limits of the excess
99 policies. If any person insured for uninsured and underinsured
100 motorist coverage is an occupant of an owned vehicle, the uninsured
101 and underinsured motorist coverage afforded by the policy covering
102 the vehicle occupied at the time of the accident shall be the only
103 uninsured and underinsured motorist coverage available.

104 (e) For the purposes of this section, an "underinsured motor vehicle"
105 means a motor vehicle with respect to which the sum of the limits of
106 liability under all bodily injury liability bonds and insurance policies
107 applicable at the time of the accident is less than the applicable limits
108 of liability under the uninsured motorist portion of the policy against
109 which claim is made under subsection (b) of this section.

110 (f) Notwithstanding subsection (a) of section 31-284, an employee of
111 a named insured injured while occupying a covered motor vehicle in
112 the course of employment shall be covered by such insured's otherwise
113 applicable uninsured and underinsured motorist coverage.

114 (g) (1) No insurance company doing business in this state may limit
115 the time within which any suit may be brought against it or any
116 demand for arbitration on a claim may be made on the uninsured or

117 underinsured motorist provisions of an automobile liability insurance
 118 policy to a period of less than three years from the date of accident,
 119 provided, in the case of an underinsured motorist claim the insured
 120 may toll any applicable limitation period (A) by notifying such insurer
 121 prior to the expiration of the applicable limitation period, in writing, of
 122 any claim which the insured may have for underinsured motorist
 123 benefits and (B) by commencing suit or demanding arbitration under
 124 the terms of the policy not more than one hundred eighty days from
 125 the date of exhaustion of the limits of liability under all automobile
 126 bodily injury liability bonds or automobile insurance policies
 127 applicable at the time of the accident by settlements or final judgments
 128 after any appeals.

129 (2) Notwithstanding the provisions of subdivision (1) of this
 130 subsection, in the case of an uninsured motorist claim, if the motor
 131 vehicle of a tortfeasor is an uninsured motor vehicle because the
 132 automobile liability insurance company of such tortfeasor becomes
 133 insolvent or denies coverage, no insurance company doing business in
 134 this state may limit the time within which any suit may be brought
 135 against it or any demand for arbitration on a claim may be made on
 136 the uninsured motorist provisions of an automobile liability insurance
 137 policy to a period of less than one year from the date of receipt by the
 138 insured of written notice of such insolvency of, or denial of coverage
 139 by, such automobile liability insurance company.

140 Sec. 2. Section 38a-336a of the general statutes is repealed and the
 141 following is substituted in lieu thereof (*Effective October 1, 2008*):

142 (a) Each insurer licensed to write automobile liability insurance in
 143 this state shall offer, for an additional premium, underinsured motorist
 144 conversion coverage with limits in accordance with section 38a-336, as
 145 amended by this act. The purchase of such underinsured motorist
 146 conversion coverage shall be in lieu of underinsured motorist coverage
 147 pursuant to section 38a-336, as amended by this act.

148 (b) The availability and premium cost of underinsured motorist

149 conversion coverage and the benefits afforded by such coverage shall
 150 be clearly disclosed to an insured at the time of purchase. Such
 151 information shall also be included in the informed consent form
 152 specified in subdivision (2) of subsection (a) of section 38a-336, as
 153 amended by this act.

154 ~~[(b)]~~ (c) Such coverage shall provide for the protection of persons
 155 insured thereunder who are legally entitled to recover damages from
 156 owners or operators of underinsured motor vehicles.

157 ~~[(c)]~~ (d) Each insurer shall be obligated to pay to the insured, up to
 158 the limits of the policy's underinsured motorist conversion coverage,
 159 after the limits of liability under all bodily injury liability bonds or
 160 insurance policies applicable at the time of the accident have been
 161 exhausted by payment of judgments or settlements. If the insured
 162 purchases such underinsured motorist conversion coverage, then in no
 163 event shall the underinsured motorist coverage be reduced on account
 164 of any payment by or on behalf of the tortfeasor or by any third party.

165 ~~[(d)]~~ (e) The selection of coverage under this section shall apply to
 166 all subsequent renewals of coverage and to all policies or
 167 endorsements which extend, change, supersede or replace an existing
 168 policy issued to the named insured, unless changed in writing by any
 169 named insured.

170 ~~[(e)]~~ (f) For purposes of this section, an "underinsured motor
 171 vehicle" means a motor vehicle with respect to which the sum of all
 172 payments received by or on behalf of the covered person from or on
 173 behalf of the tortfeasor are less than the fair, just and reasonable
 174 damages of the covered person.

175 ~~[(f)]~~ (g) The provisions of this section shall apply to all new and
 176 renewal policies issued on or after January 1, 1994.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>October 1, 2008</i>	38a-336
Sec. 2	<i>October 1, 2008</i>	38a-336a

INS *Joint Favorable*